

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

BRETT STORKS,

Plaintiff,

v.

CIV. NO. 1:19-cv-00695-RB-KRS

ANDREW SAUL,  
COMMISSIONER OF  
SOCIAL SECURITY

Defendant.

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEYS FEES AND COSTS**

THIS MATTER is before the Court on the Second Unopposed Motion for an Award of Attorney Fees under the Equal Access to Justice Act, (Doc.31), filed 02/05/2021, in which the parties stipulate to awarding Plaintiff EAJA fees in the amount of \$4,612.50. The Parties further agree that Plaintiff shall be awarded \$400.00 in costs.

IT IS THEREFORE ORDERED that Plaintiff be awarded **\$5,012.50** pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See *Astrue v. Ratliff*, 560 U.S. 586, 591–93 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



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Kevin R. Sweazea  
UNITED STATES MAGISTRATE JUDGE

Approved:

/s/

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Benjamin Eilers Decker  
Attorney For Brett Storks

*/s/ by email 02/05/2021*

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Steven Martyn  
Special Assistant U.S. Attorney  
steven.martyn@ssa.gov